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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,695	07/28/2003	James Jannard	NOCODE2.005A	6076
20995 7590 01/08/2008 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER JACKSON, BLANE J	
			ART UNIT 2618	PAPER NUMBER
			NOTIFICATION DATE 01/08/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## Office Action Summary

Application No.

10/628,695

Applicant(s)

JANNARD ET AL.

Examiner

Blane J. Jackson

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 42-57, 63 and 71-86 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 42-57, 63, 71, 72, 74, 75, 78-80, 82 and 84-86 is/are rejected.
- 7) ☒ Claim(s) 73, 76, 77, 81 and 83 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 31 October 2007 has been entered.

### ***Response to Arguments***

Applicant's arguments with respect to amended claims 42 and 51 have been considered but are moot in view of the new ground(s) of rejection. Vogt is introduced to teach radio eyewear comprising an antenna extending along at least one of the first and second or stems. Berstis is presented to teach an electronic device in the form of a set of glasses comprising an input interface with a voice recognition system.

### ***Drawings***

The drawings were received on 31 October 2007. These drawings are accepted.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 42-50, 71, 72, 74, 78-80 and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warren (US 7,013,009) in view of Vogt et al. (US 5,606,743).

As to claim 42, 71, 72 and 78-80, Warren teaches a wearable wireless audio interface comprising:

A support configured to support at least one lens in a field of view of a wearer, said support comprising a first ear stem and a second ear stem, the support being configured to be worn on the wearer's head (figure 2, column 3, lines 39-55 and column 4, lines 32-43, eyeglasses comprising a wireless audio interface),

A microphone supported by the support, said microphone configured to output a microphone signal in response to detected sound (figures 2-5, column 4, lines 44-60, microphone (20) mounted to lens holder or support arms (18)),

A cellular telephone interface supported by the support, said cellular telephone interface being configured to wirelessly transmit a first signal from the cellular telephone interface to a cellular telephone, wherein said first signal corresponds to the microphone signal, wherein said cellular telephone interface is further configured to wirelessly receive a second signal from the cellular telephone and to output a telephone output based upon said second signal (figures 1 and 2, column 4, lines 14-18 and lines 61-67

and column 5, lines 18-24 and Bluetooth wireless transceiver as the interface from the eyeglasses to a cellular telephone) and,

At least one speaker supported by at least one of said first and second ear stems, wherein said at least one speaker is configured to provide an audio signal to the wearer based upon said telephone output and said stereo output (figure 2, column 5, lines 1-17, speaker (24) or other speakers mounted in the support arms (18) for producing stereo).

Warren teaches the eyeglasses includes stereo audio speakers and a Bluetooth based wireless transceiver to communicate with a cell phone or other electronic device, column 4, lines 13-31 and column 5, lines 13-24, but does not also teach an additional stereo wireless receiver supported by the support.

Vogt teaches an eyewear assembly comprising a stereo wireless receiver supported by the support and configured to wirelessly receive a stereo audio signal from an audio device wherein the stereo wireless receiver is further configured to output a stereo output based upon the stereo audio signal, figures 13 and 15, column 9 line 46 to column 10, line 3.

Since Warren teaches eyeglasses with wireless communication features can be used to communicate with personal computers or stationary radios, column 4, lines 14-30, it would have been obvious to one of ordinary skill in the art at the time of the invention to expand the communication system of Warren to comprise the additional receiver of Vogt for accessing and playing music or other sounds.

Warren of Warren modified teaches a single antenna mounted to the eyeglasses frame (12) to support the selected transceiver such as Bluetooth, column 5, lines 50-64, but does not teach an antenna extending along at least one of said first and second ear stems of the support.

Vogt further teaches radio eyewear comprising a receiver mounted in a bow (ear piece) or brow (glasses frame) and a strip circuit containing a number of discrete conductors mounted within a wireway routed into the bow piece and brow pieces (242, 244 and 246) including an antenna conductor (282), figures 13-15, column 5, lines 51-65 and column 9, line 66 to column 10, line 22.

Since Warren teaches wires connecting the microphone to the transmitter, the receiver to a speaker and the battery to the transceiver can be embedded into or mounted onto the frame, column 5, lines 50-64, it would have been obvious to one of ordinary skill in the art at the time of the invention to reposition the antenna of Warren within the eyeglass left and right ear stems of Vogt for ease of manufacturing.

As to claim 43 with respect to claim 42, Warren teaches said microphone is supported by said first ear stem (figure 2, column 4, lines 44-55, microphone (20) is mounted to the eyeglass frame (12) or one of the support arms (18)).

As to claim 44 with respect to claim 42, Warren teaches the cellular telephone interface comprises a wireless transceiver (figure 2, column 4, line 13 to column 5, line

24, cell phone (32) is adapted for sending and receiving signals wirelessly to the eyeglasses (10)).

As to claim 45 with respect to claim 42, Warren teaches the cellular telephone interface comprises a Bluetooth transceiver (column 4, line 61 to column 5, line 24, Bluetooth or other software for wireless transmission).

As to claim 46 with respect to claim 45, Warren teaches the stereo wireless receiver comprises the Bluetooth receiver (column 4, lines 24-31, the Bluetooth receiver may be adapted to receive music or other sounds).

As to claim 47 with respect to claim 42, Warren teaches the cellular telephone interface is supported by the first ear stem, figure 2, the Bluetooth module and audio processing is located in the first stem (18), column 4, line 61 to column 5, line 24, but does not teach the stereo wireless receiver is supported by the second ear stem.

Vogt teaches the receiver circuitry and batteries are arranged in opposite bow pieces or ear stems or mounted in the brow piece (242, column 8, lines 5-11 and column 10, line 66 to column 10 line 22).

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the second ear stem of Warren to house the receiver as taught by Vogt such that the appropriate control actuators are positioned nearby to facilitate ready accessibility by the user.

As to claim 48 with respect to claim 42, Warren teaches the at least one speaker comprises two speakers (column 5, lines 1-17, two or another number of speakers can be provided for stereo or quadraphonic sound).

As to claim 49 with respect to claim 42, Warren teaches the audio device comprises an MP3 player (column 4, lines 13-30, eyeglasses can be adapted for sending and receiving data with a cell phone or in other forms, communicate with PDA's portable or stationary television, radio, compact disc players, tape players or the like).

As to claim 50 with respect to claim 42, Warren teaches the audio device comprises a cellular phone (column 4, lines 13-31, eyeglasses (10) communicate wirelessly with a cell phone or other electronic device).

As to claims 74 and 82 with respect to claims 42 and 78, Warren teaches the antenna is insulated (column 5, line 51 to column 6, line 8 and column 10, lines 14-22, the embedded antenna and hinge contacts/connections are electrically insulated from one another via the intermediate molded material which forms the bow pieces (ear stems)).



Claims 51-57, 63, 75 and 84-86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warren (US 7,013,009) in view of van Pelt et al. (US 2003/0073460) and Berstis et al. (US 6,650,894).

As to claims 51, 84 and 86, Warren teaches a wearable wireless audio interface comprising:

A support configured to support at least one lens in a field of view of a wearer, said support comprising a first ear stem and a second ear stem, the support being configured to be worn on the wearer's head (figure 2, column 3, lines 39-55 and column 4, lines 32-43, eyeglasses comprising a wireless audio interface),

A microphone supported by the support, said microphone configured to output a microphone signal in response to detected sound (figures 2-5, column 4, lines 44-60, microphone (20) mounted to lens holder or support arms (18)),

A cellular telephone interface supported by the support, said cellular telephone interface being configured to wirelessly transmit a first signal from the cellular telephone interface to a cellular telephone, wherein said first signal corresponds to the microphone signal, wherein said cellular telephone interface is further configured to wirelessly receive a second signal from the cellular telephone and to output a telephone output based upon said second signal (figure 1, column 4, lines 14-18 and lines 61-67 and column 5, lines 18-24 and Bluetooth wireless transceiver as the interface from the eyeglasses to a cellular telephone) and,

At least one speaker supported by at least one of said first and second ear stems, wherein said at least one speaker is configured to provide an audio signal to the

wearer based upon said telephone output and said stereo output (column 5, lines 1-17, speaker (24) or other speakers mounted in the support arms (18) for producing stereo).

Warren teaches the eyeglasses includes stereo audio speakers and a Bluetooth based wireless transceiver to communicate with a cell phone or other electronic device such as compact disc players, column 4, lines 13-31 and column 5, lines 13-24, but does not teach an audio device comprising a storage device configured to store compressed audio files and configured to decompress the compressed audio files and output an audio signal based on said decompressed audio file.

Pelt teaches a wireless headset to wirelessly communicate low quality mono audio with a nearby cell phone as well as a high quality stereo audio from a MP3 player or a CD player, paragraphs 007-0010. Pelt teaches a first earpiece or a first headset unit (110) comprising an output device or earpiece (112), processor (116), memory (120), user interface and battery with a wireless audio interface for Bluetooth wireless connectivity to an audio device such as a cell phone, MP3 player or a PC mobile phone with MP3 function for stereo operation of the MP3 player, figures 1-3 and paragraphs 0029-0036. Pelt teaches a second headset unit (140) comprising a user interface, audio earpiece (148), power system, memory (145) and a processor (141), these components to provide additional signal processing such as MP3 buffering and decoding with stereo playback via the earpiece in each headset unit, figure 4, paragraph 0037 and 0040.

Since Warren teaches a wearable wireless audio interface for a mono or stereo audio device, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the audio system of Warren to include the additional data

processing and incorporated into other available space as taught by Pelt for the audio playback of MP3 files.

Warren modified does not teach interface electronics including a speech recognition engine for receiving said microphone signal and controlling at least one of the cellular telephone and said audio device in response to said microphone signal.

Berstis teaches an electronic device in the form of a set of glasses to communicate with a stand alone device, LAN or a wide-area network (WAN), figure 1, column 3, lines 19-52. Berstis further discloses the electronic device (40) includes input interface (42) comprising buttons, or a voice-recognition system, column 3, line 53 to column 4, line 8.

Since Warren teaches eyeglasses in communication with electronic devices with capabilities for voice recognition, column 4, lines 24-31, it would have been obvious to one of ordinary skill in the art at the time of the invention to recognize the input interface of Warren modified to include a speech engine as taught by Berstis for accessing and playing music or other sounds.

As to claim 52 with respect to claim 51, Warren teaches said microphone is supported by said first ear stem (figure 2, column 4, lines 44-55, microphone (20) is mounted to the eyeglass frame (12) or one of the support arms (18)).

As to claim 53 with respect to claim 51, Warren teaches the cellular telephone interface comprises a wireless transceiver (figure 2, column 4, lines 13-31 eyeglasses that wirelessly communicate with cell phone).

As to claim 54 with respect to claim 51, Warren teaches the cellular telephone interface comprises a Bluetooth transceiver (column 4, line 61 to column 5, line 24, Bluetooth or other software for wireless transmission).

As to claim 55 with respect to claim 51, Pelt of Warren modified teaches the audio device comprises an MP3 player (paragraph 0032, examples of an audio device includes an MP3 audio player, CD player of a PC mobile phone with MP3 function).

As to claim 56 with respect to claim 51, Warren teaches the cellular telephone interface, the Bluetooth module and audio processing is located in the first stem (18), figure 2, column 4, line 61 to column 5, line 24, but does not teach the stereo wireless receiver is supported by the second ear stem.

Vogt teaches the receiver circuitry and batteries are arranged in opposite bow pieces or ear stems or mounted in the brow piece (242, column 8, lines 5-11 and column 10, line 66 to column 10 line 22).

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the second ear stem of Warren to house the receiver at taught by

Vogt such that the appropriate control actuators are positioned nearby to facilitate ready accessibility by the user.

As to claim 57 with respect to claim 51, Warren teaches the at least one speaker comprises two speakers (column 5, lines 1-17, two or another number of speakers can be provided for stereo or quadraphonic sound).

As to claim 63 with respect to claim 51, Warren teaches the audio device comprises a wireless transceiver (column 4, lines 13-31, eyeglasses (10) communicate wirelessly with a cell phone or other electronic device).

As to claims 75 and 85 with respect to claims 51 and 84, Warren teaches the interface electronics are operative to control the cellular telephone via said first signal (column 4, lines 13-31, wireless control and communication of electronic devices such as a cellular phone with abilities for voice recognition).

### ***Allowable Subject Matter***

Claims 73, 76, 77, 81 and 83 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As to claims 73 and 81, the prior art made of record does not teach the antenna includes a coil wrapped helically about a rod. As to claims 76 and 77, the prior art made of record does not teach the

interface electronics of a wearable wireless audio interface includes an audio menu or a speech recognition engine. As to claim 83, prior art Howell et al. teaches eyewear supporting after market electrical components including communication with a radio satellite provider but is predated by the applicants effective filing date.

### ***Conclusion***

The prior art made of record and not relied upon but considered pertinent to applicant's disclosure includes Howell et al. (US 2007/0046887).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blane J. Jackson whose telephone number is (571) 272-7890. The examiner can normally be reached on Monday through Thursday, 7:30 AM-6:00 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Blum / John".